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By ECFS

July 30, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Federal-State Joint Board on Universal Service Seeks Comment on Lifeline and Link-Up Eligibility, Verification, and Outreach Issues Referred to Joint Board*, CC Docket No. 96-45, WC Docket No. 03-109

Dear Secretary Dortch:

The Massachusetts Department of Telecommunications and Cable ("MDTC")¹ respectfully submits this letter as reply comments pursuant to the request for comment, issued on June 15, 2010, by the Federal-State Joint Board on Universal Service ("Joint Board"), in the above-captioned proceeding.² The Joint Board seeks public comment on questions of eligibility, verification, and outreach for the Universal Service Fund ("USF") low-income programs, Lifeline and Link-Up, as it prepares its recommended decision for the Federal Communications Commission ("FCC").³

¹ The MDTC is the exclusive state regulator of telecommunications and cable services within the Commonwealth of Massachusetts. G. L. c. 25C, § 1.

² *Federal-State Joint Board on Universal Service Seeks Comment on Lifeline and Link-up Eligibility, Verification, and Outreach Issues Referred to Joint Board*, CC Docket No. 96-45, WC Docket No. 03-109, *Public Notice*, FCC 10J-2, at ¶ 1 (rel. Jun. 15, 2010), *attaching Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, CC Docket No. 96-45, WC Docket No. 03-109, *Order*, FCC 10-72 (rel. May 4, 2010) ("Referral Order").

³ *See Referral Order*.

Specifically, the Joint Board asks whether the FCC should adopt more uniform standards of eligibility for the Lifeline and Link-Up programs that would apply across all states, both federal default and non-federal default.⁴ Additionally, the Joint Board asks whether the FCC should update or amend the verification requirements for eligible telecommunications carriers (“ETCs”).⁵ The Joint Board also seeks comment on the current federal outreach guidelines as well as whether mandatory federal outreach requirements should be implemented.⁶ Finally, the Joint Board seeks comment on whether the potential expansion of the Lifeline and Link-Up programs to include broadband would have any implications on the Board’s recommendations.⁷

The MDTC agrees that due to recent national increases in participation in the low-income programs, it is “an opportune time to revisit the programs to ensure that they are effectively reaching eligible consumers, and that [] oversight continues to be appropriately structured to minimize waste, fraud, and abuse.”⁸ However, the MDTC urges the Joint Board to preserve the integral state role in the USF low-income programs, both in the creation and administration of eligibility and verification procedures, and the option to mandate outreach requirements. Allowing states to create their own criteria permits states to design those criteria to address local conditions.⁹ Further, the MDTC notes that it is constrained from providing substantive comment on certain issues due to a recently-opened investigation into Lifeline certification and verification procedures used in Massachusetts.¹⁰ However, we attach for consideration, as Appendix A to this letter, the MDTC order opening this investigation. This order also sets forth the MDTC’s findings on an annual verification audit conducted by an ETC operating within the state.¹¹

⁴ *Id.* at ¶ 16.

⁵ *Id.* at ¶¶ 14-30.

⁶ *Id.* at ¶ 34.

⁷ *Id.* at ¶¶ 24, 30, 35.

⁸ *Id.* at ¶ 11.

⁹ See NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, LEGISLATIVE TASK FORCE REPORT ON FEDERALISM AND TELECOM, *pts.* III-IV (2005), available at http://www.dps.state.ny.us/federalism_s0705.pdf (“NARUC REPORT”). See also *In the Matter of Lifeline and Link-Up*, WC Docket No. 03-109, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 04-87, at ¶ 16 (rel. Apr. 29, 2004) (“2004 Order”).

¹⁰ See *TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers*, D.T.C. 09-9, *Order*, at 16 (rel. Jun. 30, 2010) (“*TracFone Order*”) (opening *Investigation by the Department to Establish Lifeline Certification and Verification Procedures*, D.T.C. 10-3).

¹¹ In January 2010, the MDTC indicated that it would provide the FCC with the results of the MDTC’s then ongoing review of TracFone Wireless, Inc.’s (“TracFone”) first annual verification audit. MDTC’s *Ex Parte Notice, Comment Sought on TracFone Request for Modification on Condition Adopted in Commission Order Granting TracFone Forbearance from Eligible Telecommunications Carrier Requirements*, CC Docket No. 96-45 (filed Jan. 8, 2010). The MDTC advised that the information gleaned from this review would assist the FCC in deciding whether or not to eliminate the annual verification requirement for ETCs. *Id.* at 3. The MDTC has now concluded that review and attaches a copy of the resulting order to these comments as Appendix A.

The existence of federal default rules ensures that baseline requirements exist in those states where state commissions do not assert jurisdiction over ETCs operating within their states.¹² However, state commissions that assert jurisdiction are in the best position to establish eligibility criteria that maximize efficiency and best serve the needs of their constituents.¹³ This position is consistent with that previously taken by the Joint Board when it recommended adding Temporary Assistance for Needy Families (“TANF”) to the list of federal programs that would serve as proof of eligibility for Lifeline services.¹⁴ This position also was taken by the FCC when it adopted the Joint Board’s recommendation.¹⁵ Both the FCC and the Joint Board noted that using programs such as TANF as proof of eligibility is desirable because the eligibility criteria for TANF are shaped by states, giving each state broad discretion to adjust requirements to meet the needs of its constituents.¹⁶

The MDTC believes that states should retain an integral role in shaping flexible and efficient verification procedures.¹⁷ We also recognize the importance of collecting complete data on verification. To that end, the MDTC supports a requirement that all ETCs, in both federal default states and non-federal default states, should be required to submit the data collected through their annual verification procedures to the Universal Service Administrative Company (“USAC”). Indeed, the MDTC has directed that Massachusetts ETCs submit the results of their annual verification surveys to both the MDTC and the USAC.¹⁸ We take this position, recognizing the value for federal and state policymakers of having a more complete picture of the effectiveness of current procedures nationwide.

With regard to outreach, the MDTC believes that more specific federal outreach guidelines can only serve to improve public awareness of the USF low-income programs. Further, the MDTC recognizes the benefits of increased advertising as evidenced by the recent and significant increase in Massachusetts Lifeline subscribers following TracFone’s entry into the Massachusetts market in early 2009.¹⁹ To promote their new Safelink service, TracFone engaged in extensive advertising, both on television and in print, which resulted in a large

¹² See 2004 Order, at ¶¶ 8-9.

¹³ See NARUC REPORT, at III-IV. See also Cal. Pub. Utils. Comm’n Comments, *Federal-State Joint Board on Universal Service Seeks Comment on Lifeline and Link-Up Eligibility, Verification, and Outreach Issues Referred to Joint Board*, CC Docket No. 96-45, WC Docket No. 03-109, at 12-13 (filed Jul. 16, 2010).

¹⁴ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Recommended Decision*, FCC 03J-2, at ¶ 22 (rel. Feb. 27, 2003) (“2003 Recommended Decision”).

¹⁵ 2004 Order, at ¶ 16.

¹⁶ *Id.* See also 2003 Recommended Decision, at ¶ 22.

¹⁷ See NARUC REPORT, at III-IV.

¹⁸ *TracFone Order*, at Attachment 1, ¶ 3.

¹⁹ Universal Service Administrative Company, Low Income Disbursement Data, <http://www.usac.org/li/tools/disbursements/default.aspx> (last visited Jul. 12, 2010) (“USAC Disbursement Data”) (providing disbursement data on each ETC on a monthly basis by state).

increase in Lifeline enrollment.²⁰ TracFone's rapid and substantial entry in the state's Lifeline market did not primarily come at the expense of other Lifeline providers in the state, who have experienced only a limited decrease in their Lifeline subscriber counts.²¹ Thus, it is likely that these significant advertising and outreach measures successfully reached a large pool of customers who were not previously aware of the Lifeline and Link-Up programs.²²

State outreach efforts are an important tool for ensuring that the public is aware of the Lifeline and Link-Up programs. For instance, the MDTC has conducted several outreach efforts. The MDTC provides Lifeline/Link-Up applications in both English and Spanish on its website for submittal to ETCs directly.²³ The MDTC also maintains a dedicated page on its website to inform consumers about the Lifeline and Link-Up programs and informs low-income consumers of the programs when they call the MDTC directly.²⁴ The MDTC has also created a pamphlet about the Lifeline and Link-Up programs and has distributed this pamphlet to cities and towns throughout the state as well as to all benefits agencies serving low-income citizens.²⁵ Additionally, the MDTC has coordinated with other state agencies, such as the Massachusetts Department of Transitional Assistance, the Attorney General's Office, and the Office of Consumer Affairs, to distribute information about Lifeline and Link-Up to citizens when they apply for benefits.

²⁰ *Id.* The MDTC did not impose these outreach efforts on TracFone. However, the MDTC previously established baseline outreach requirements on the incumbent ETC in 1992. *See Investigation by the Dep't on its own motion as to the propriety of the rates and charges set forth in tariff schedules M.D.P.U. 10 and 15, filed with the Dep't on March 31, 1992, to become effective April 30, 1992, by New England Tel. and Tel. Co., D.P.U. 92-100, Order*, at 6 (1992) (describing specific outreach requirements approved by the MDTC's predecessor agency). These requirements include: (1) providing annual training for employees about Lifeline and Link-Up, (2) instructing customer service representatives to supply information on these programs, (3) including basic information about the programs in their white pages directory, (4) continuing to utilize annual bill inserts to notify residential customers about these programs, (5) limiting sales efforts regarding optional services directed at subscribers of these programs and (6) expanding internal sales incentive programs to include incentives for subscription of customers eligible for these programs.

²¹ USAC Disbursement Data, *supra* note 19.

²² The MDTC notes that adoption numbers may also be a reflection of non-quantifiable factors, including: (1) the type of services available under the program; and (2) whether certain segments of the population simply opt to not enroll due to personal reasons.

²³ Massachusetts Application for Lifeline/Link-Up Telephone Service, *available at* http://www.mass.gov/Eoca/docs/dtc/Consumer/Lifeline_Application6_2010.pdf (providing an application for Lifeline/Link-Up service as well as a list of ETCs); *Solicitud para el servicio telefónico de Lifeline/Link-Up en Massachusetts, available at* http://www.mass.gov/Eoca/docs/dtc/Consumer/spanish_lifelineapp6_2010.pdf (providing the same application and ETC information in Spanish).

²⁴ Link-Up & Lifeline – What Consumers Should Know, http://www.mass.gov/?pageID=ocamodulechunk&L=4&L0=Home&L1=Government&L2=Our+Agencies+and+Divisions&L3=Department+of+Telecommunications+and+Cable&sid=Eoca&b=terminalcontent&f=dtc_telecom_lifelinefaq&csid=Eoca (last visited Jul. 27, 2010) (providing essential information about the Lifeline and Link-Up programs) .

²⁵ Pamphlet from Massachusetts Department of Telecommunications & Cable, What are Link-Up and Lifeline? (provided as Appendix B to these comments).

Finally, the MDTC agrees with the Joint Board's assertion that "broadband service has become an essential mode of communication for many Americans in the last decade."²⁶ To ensure that USF programs keep pace with technological progress, we recommend modifying the Lifeline and Link-Up programs directly, rather than instituting a limited pilot program to study the possibility of a broadband assistance program running in parallel with Lifeline and Link-Up.²⁷ The existing programs should be reformed to permit consumers to use the subsidy in the most cost-effective method for them, and in a manner which would not lock them into a single technology.²⁸ In particular, Lifeline and Link-Up assistance should be made available for a variety of services, on the basis of one subsidy per household, which could be used for wireless, wireline, or broadband connections, or for a bundled package of services.²⁹ However, until the FCC establishes the parameters for extending the low-income programs to broadband, the MDTC feels it is premature to comment on how the inclusion of broadband in these programs will affect the Joint Board's ultimate recommendations.

The MDTC thanks the Joint Board for this opportunity to comment.

Sincerely,

/s/ Geoffrey G. Why

Geoffrey G. Why, Commissioner
Massachusetts Dept. of
Telecommunications and Cable

²⁶ Referral Order at ¶ 12.

²⁷ MDTC Comments, *In the matter of High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service Contribution Methodology*, WC Docket No. 06-122, *Numbering Resource Optimization*, CC Docket No. 99-200, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, *IP-Enabled Services*, WC Docket No. 04-35, at 27 (filed Nov. 26, 2008).

²⁸ *Id.*

²⁹ *Id.*